

AMENDED IN SENATE JUNE 3, 1998  
AMENDED IN ASSEMBLY MAY 19, 1998  
AMENDED IN ASSEMBLY APRIL 28, 1998  
AMENDED IN ASSEMBLY APRIL 15, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2680**

**Introduced by Assembly Member Wright**

February 23, 1998

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An act to amend ~~Section 68551 of the Government Code,~~ and to amend Sections 17, 290.6, 1243, and 1467 of, and to add Sections 290.8 and 290.85 to, the Penal Code, relating to sex offender registration.

LEGISLATIVE COUNSEL'S DIGEST

AB 2680, as amended, R. Wright. Sex offender registration.

(1) ~~Existing law authorizes the Judicial Council to conduct institutes and seminars for the purpose of orienting judges to new judicial assignments, keeping them informed concerning new developments in the law, and promoting uniformity in judicial procedure.~~

~~This bill would authorize these institutes and seminars to include consideration of sex offender registration and certificates of rehabilitation.~~

~~(2) Existing law specifies that when a crime is punishable, in the discretion of the court, by imprisonment in the state~~

prison or by fine or imprisonment in a county jail, it is a misdemeanor for all purposes under specified circumstances.

This bill would declare that nothing in this provision authorizes a judge to relieve a defendant of the duty to register as a sex offender if the defendant is charged with an offense for which registration as a sex offender is required, and for which the trier of fact has found the defendant guilty.

~~(3)~~

(2) Existing law requires the Department of Corrections, 15 days before the scheduled release date of a person who is required to register as a sex offender for the conviction of any specified sex offense, or who is sentenced to an enhanced term for prior sex offense convictions, to provide to local law enforcement certain information regarding the person.

This bill would generally extend the application of this provision by removing limitations with respect to the age of the victim of the specified sex offenses, and including additional offenses, including, but not limited to, kidnapping or assault with the intent to commit a specified sex offense, felony sexual battery, and rape in concert. The bill would delete the notification requirement with respect to any person who is sentenced to an enhanced term for prior sex offense convictions or as a habitual sexual offender or habitual child molester.

~~(4)~~

(3) Existing law provides that an appeal from a judgment of conviction does not stay the execution of the judgment or order granting probation in any case other than where sentence of death has been imposed, unless the trial, reviewing, or appellate court, in its discretion, so orders.

This bill would prohibit the court from staying any duty to register as a sex offender.

~~(5)~~

(4) Existing law requires a person convicted of a specified sex offense or the attempt to commit any specified sex offense, to register with a local law enforcement agency upon his or her discharge, parole, or release from confinement and to update that registration annually or upon a change of residence address.



This bill would require any local law enforcement agency that does not register sex offenders during regular daytime business hours on a daily basis, to notify the regional parole office for the Department of Corrections and the Department of the Youth Authority, of the times, days, and locations that the agency is available for registration of sex offenders pursuant to the above provision. The bill would also require every parolee who is required to register as a sex offender to provide proof of registration to his or her parole agent within 6 working days of release on parole. By expanding the duties of local officials, this bill would impose a state-mandated local program.

(6)

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1    ~~SECTION 1. Section 68551 of the Government Code~~  
2    ~~is amended to read:~~  
3    ~~68551. The Judicial Council is authorized to conduct~~  
4    ~~institutes and seminars from time to time, either~~  
5    ~~regionally or on a statewide basis, for the purpose of~~  
6    ~~orienting judges to new judicial assignments, keeping~~  
7    ~~them informed concerning new developments in the law,~~  
8    ~~and promoting uniformity in judicial procedure. These~~  
9    ~~institutes and seminars may include, but are not limited~~  
10   ~~to, consideration of juvenile court proceedings;~~

~~sentencing practices in criminal cases, sex offender registration pursuant to Section 290 of the Penal Code, certificates of rehabilitation pursuant to Section 290.5 and Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, and the handling of traffic cases. Actual and necessary expenses incurred by superior and municipal court judges at an institute or seminar shall be a charge against the county to the extent that funds are available therefor.~~

**SEC. 2.**

*SECTION 1.* Section 17 of the Penal Code is amended to read:

17. (a) A felony is a crime which is punishable with death or by imprisonment in the state prison. Every other crime or public offense is a misdemeanor except those offenses that are classified as infractions.

(b) When a crime is punishable, in the discretion of the court, by imprisonment in the state prison or by fine or imprisonment in the county jail, it is a misdemeanor for all purposes under the following circumstances:

(1) After a judgment imposing a punishment other than imprisonment in the state prison.

(2) When the court, upon committing the defendant to the Youth Authority, designates the offense to be a misdemeanor.

(3) When the court grants probation to a defendant without imposition of sentence and at the time of granting probation, or on application of the defendant or probation officer thereafter, the court declares the offense to be a misdemeanor.

(4) When the prosecuting attorney files in a court having jurisdiction over misdemeanor offenses a complaint specifying that the offense is a misdemeanor, unless the defendant at the time of his or her arraignment or plea objects to the offense being made a misdemeanor, in which event the complaint shall be amended to charge the felony and the case shall proceed on the felony complaint.

(5) When, at or before the preliminary examination or prior to filing an order pursuant to Section 872, the

1 magistrate determines that the offense is a misdemeanor,  
2 in which event the case shall proceed as if the defendant  
3 had been arraigned on a misdemeanor complaint.

4 (c) When a defendant is committed to the Youth  
5 Authority for a crime punishable, in the discretion of the  
6 court, by imprisonment in the state prison or by fine or  
7 imprisonment in the county jail, the offense shall, upon  
8 the discharge of the defendant from the Youth Authority,  
9 thereafter be deemed a misdemeanor for all purposes.

10 (d) A violation of any code section listed in Section 19.8  
11 is an infraction subject to the procedures described in  
12 Sections 19.6 and 19.7 when:

13 (1) The prosecutor files a complaint charging the  
14 offense as an infraction unless the defendant, at the time  
15 he or she is arraigned, after being informed of his or her  
16 rights, elects to have the case proceed as a misdemeanor,  
17 or;

18 (2) The court, with the consent of the defendant,  
19 determines that the offense is an infraction in which  
20 event the case shall proceed as if the defendant had been  
21 arraigned on an infraction complaint.

22 (e) Nothing in this section authorizes a judge to  
23 relieve a defendant of the duty to register as a sex  
24 offender pursuant to Section 290 if the defendant is  
25 charged with an offense for which registration as a sex  
26 offender is required pursuant to Section 290, and for  
27 which the trier of fact has found the defendant guilty.

28 ~~SEC. 3.~~

29 *SEC. 2.* Section 290.6 of the Penal Code is amended to  
30 read:

31 290.6. (a) Fifteen days before the scheduled release  
32 date of a person described in subdivision (b), the  
33 Department of Corrections shall provide to local law  
34 enforcement all of the following information regarding  
35 the person:

36 (1) Name.

37 (2) Community residence and address, including ZIP  
38 Code.

39 (3) Physical description.

40 (4) Conviction information.

1 (b) This subdivision shall apply to any person  
2 sentenced to the state prison who is required to register  
3 pursuant to Section 290 for a conviction of an offense  
4 specified in paragraph (1) of subdivision (a) of Section  
5 290.4.

6 (c) For the purpose of this section, “law enforcement”  
7 includes any agency with which the person will be  
8 required to register upon his or her release pursuant to  
9 Section 290 based upon the person’s community of  
10 residence upon release.

11 (d) If it is not possible for the Department of  
12 Corrections to provide the information specified in  
13 subdivision (a) on a date that is 15 days before the  
14 scheduled release date, the information shall be provided  
15 on the next business day following that date.

16 (e) The Department of Corrections shall notify local  
17 law enforcement within 36 hours of learning of the  
18 change if the scheduled release date or any of the  
19 required information changes prior to the scheduled  
20 release date.

21 ~~SEC. 4.~~

22 *SEC. 3.* Section 1243 of the Penal Code is amended to  
23 read:

24 1243. An appeal to the Supreme Court or to a court of  
25 appeal from a judgment of conviction stays the execution  
26 of the judgment in all cases where a sentence of death has  
27 been imposed, but does not stay the execution of the  
28 judgment or order granting probation in any other case  
29 unless the trial or appellate court shall so order. The  
30 granting or refusal of such an order shall rest in the  
31 discretion of the court, except that a court shall not stay  
32 any duty to register as a sex offender pursuant to Section  
33 290. If the order is made, the clerk of the court shall issue  
34 a certificate stating that the order has been made.

35 ~~SEC. 5.~~

36 *SEC. 4.* Section 290.8 is added to the Penal Code, to  
37 read:

38 290.8. Effective January 1, 1999, any local law  
39 enforcement agency that does not register sex offenders  
40 during regular daytime business hours on a daily basis,

1 excluding weekends and holidays, shall notify the  
2 regional parole office for the Department of Corrections  
3 and the regional parole office for the Department of the  
4 Youth Authority of the days, times, and locations the  
5 agency is available for registration of sex offenders  
6 pursuant to Section 290.

7 ~~SEC. 6.~~

8 SEC. 5. Section 290.85 is added to the Penal Code, to  
9 read:

10 290.85. Every parolee who is required to register as a  
11 sex offender, pursuant to Section 290, shall provide proof  
12 of registration to his or her parole agent within six  
13 working days of release on parole.

14 ~~SEC. 7.~~

15 SEC. 6. Section 1467 of the Penal Code is amended to  
16 read:

17 1467. An appeal from a judgment of conviction does  
18 not stay the execution of the judgment in any case unless  
19 the trial or a reviewing court shall so order. The granting  
20 or refusal of such an order shall rest in the discretion of the  
21 court, except that a court shall not stay any duty to  
22 register as a sex offender pursuant to Section 290.

23 ~~SEC. 8.~~

24 SEC. 7. Notwithstanding Section 17610 of the  
25 Government Code, if the Commission on State Mandates  
26 determines that this act contains costs mandated by the  
27 state, reimbursement to local agencies and school  
28 districts for those costs shall be made pursuant to Part 7  
29 (commencing with Section 17500) of Division 4 of Title  
30 2 of the Government Code. If the statewide cost of the  
31 claim for reimbursement does not exceed one million  
32 dollars (\$1,000,000), reimbursement shall be made from  
33 the State Mandates Claims Fund.

34 Notwithstanding Section 17580 of the Government  
35 Code, unless otherwise specified, the provisions of this act  
36 shall become operative on the same date that the act  
37 takes effect pursuant to the California Constitution.